IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1265/2006
(Charanjit Singh Vs. State of Rajasthan)

Date of Order : 04/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. A.K.Rajvanshy for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner seeks recalling of order dated 21.08.2006 passed by this Court deciding S.B.Criminal Misc. Petition No.67/2000 and two others by a common order.

I have heard learned counsel for the petitioner and public prosecutor for the State.

It has been contended by learned counsel for the petitioner as also averred in para 1 of the petition, that the matter was at serial No. 7 in the hearing cause list and counsel could not appear when the case was called due to inadvertence and the counsel for the applicant was under the impression that the matter will reach late. However, after dictation of the order,

the counsel appeared and came to know that the order has already been passed and the matter has been decided. Learned counsel for the petitioner submits that the order has been passed in absence of the counsel for the petitioner and therefore, the same may be recalled.

In my view, the order dated 21.8.2006 has been passed after taking into account the factual matrix of the case as also the legal position and even, had the petitioner's counsel been present and argued the matter, no different order could have been warranted in the facts and circumstances of the case and therefore, no case for recalling the order is made out. More so, the Criminal Procedure Code does not contemplate power to review or recall the order. I am fortified with my view by two decisions of three judge bench of Hon'ble Supreme Court in Adalat Prasad Vs. Rooplal Jindal and Ors., JT 2004 (7) SC, 243 and Subramanim Sethuraman Vs. State of Maharashtra and Anr., 2004 CRI.L.J. 4609.

In the circumstances, therefore, the petition is dismissed.

(H.R.PANWAR),J.

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